Internal Revenue Service

Department of the Treasury

Index Nos. 104.01-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

CC:EBEO:Br 6 PLR-108020-99

Date: AUG 18 1999

Taxpayer =

Dear

This is in reply to your letter dated April 23, 1999, requesting a ruling, on behalf of Taxpayer, concerning the Federal income tax treatment of benefits received by current or future Equity Partners under Taxpayer's Long Term Disability Plan (the Plan).

Taxpayer, a law firm organized as a partnership, maintains the Plan. The Plan covers Equity Partners who are self-employed owners of the Taxpayer and employees of the Taxpayer (including Non-Equity Partners, associates, staff attorneys, administrative personnel and staff). Previously, the Taxpayer has always paid 100% of the monthly premium contributions on behalf of the employees, including the Non-Equity Partners. Conversely, Equity Partners have always paid 100% of their own monthly insurance premiums due under the Plan with after-tax earnings.

Taxpayer has amended the Plan to provide that employees of the Taxpayer who are Non-Equity Partners will begin to pay 100% of their own monthly insurance premiums under the Plan with after-tax earnings. Taxpayer will continue to make 100% of the monthly premium insurance payments on behalf of all other groups of employees covered under the Plan. Equity Partners will continue to make 100% of their own monthly premium payments with after-tax earnings. Of those who currently are, or who become, Non-Equity Partners, some will remain Non-Equity Partners indefinitely while other Non-Equity Partners will subsequently be elected Equity Partners. Some Non-Equity Partners have been elected to become Equity Partners in each of the past three years, and it is certain that one or more Non-Equity Partners will become Equity Partners in the current and in future years.

For any Non-Equity Partner who became an Equity Partner prior to calendar year 1999, the Taxpayer ceased making contributions to the Plan on his or her behalf, effective as

of the date the individual became an Equity Partner. Therefore, as of the date the individual became an Equity Partner, the individual began making his or her own monthly premium payments with after-tax earnings. For Non-Equity Partners who become Equity Partners after the effective date of the Plan amendment, the individual will have already begun making his or her own premium payments with after-tax earnings as a Non-Equity Partner and will therefore continue to pay his or her own monthly premium payment as an Equity Partner.

You have requested a ruling that benefit payments made under the Plan to any current or future Equity Partner will not be includible in whole or part in the Equity Partner's gross income in the year payments are received.

Section 61(a) of the Internal Revenue Code (the Code) provides that, generally, gross income means all income from whatever source derived.

Section 104(a)(3) of the Code provides,

> (a) In General. -- Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include --
>
> > (3) amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer); (Emphasis added)

Equity Partners of the Taxpayer are not employees, nor otherwise deemed to be employees with respect to accident and health insurance under the Plan (See, Rev. Rul. 85-121, 1985-2 C.B. 57 and Rev. Rul. 82-196, 1982-2 C.B. 53). Because benefits received by Equity Partners from the Plan are not "received by an employee" for purposes of the parenthetical limitation to section 104(a)(3), the benefits are excludable from the Equity Partners' gross incomes (provided the amounts were not attributable to deductions allowed under section 213 for a prior taxable year).

No opinion is expressed or implied concerning the tax consequences of the Plan under any other provision of the Code or regulations other than those specifically stated above.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,

Harry Beker
Chief, Branch No.6
Office of the Associate
Chief Counsel
(Employee Benefits and
Exempt Organizations)

Enclosures:
Copy of this letter
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